

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

DYNISHA SMITH,

Plaintiff,

Case No. 14-cv-14614

v

Honorable Thomas L. Ludington
Magistrate Judge Mona K. Majzoub

CAROLYN W. COLVIN, acting
Commissioner of social security,

Defendant.

**ORDER ADOPTING THE REPORT AND RECOMMENDATION, GRANTING IN
PART PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, DENYING
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, AND REMANDING
PURSUANT TO SENTENCE FOUR**

Plaintiff Dynisha Smith filed applications for supplemental security income on April 17, 2013 alleging disability. After her claim was initially denied, Smith timely requested an administrative hearing, which was held on August 22, 2014. On September 5, 2014 the ALJ issued a written decision finding Smith not disabled. Smith then appealed to this Court on December 6, 2014, alleging that the Commissioner's determination was not based on substantial evidence in the record. ECF No. 1.

Plaintiff Smith filed a motion for summary judgment on April 26, 2015, alleging that the Commissioner did not properly assess the opinions of her treating physician, Doctor Jamie Hall, M.D., and her treating psychiatrist, Dr. Theadia Carey, M.D. ECF No. 13. Defendant Commissioner then filed a motion for summary judgment on June 1, 2015. ECF No. 14. On January 12, 2016, Magistrate Judge Mona K. Majzoub issued a report and recommendation. ECF No. 15. Reviewing the Commissioner's decision under a "substantial evidence" standard, the magistrate judge determined that the ALJ did not provide good reason for discounting the

opinion of Smith's treating physician, Dr. Hall. *Id.* Specifically, the magistrate judge found that the ALJ did not offer any explanation or identify any evidence to support her conclusion that Dr. Hall's opinion was inconsistent with the hearing testimony and the medical record. *Id.* The magistrate judge therefore recommended that Smith's motion for summary judgment be granted in part, Defendant Commissioner's motion for summary judgment be denied, and the matter be remanded for a proper assessment of Dr. Hall's opinion under sentence-four of 42 U.S.C. § 405(g).

Although the magistrate judge's report explicitly stated that the parties to this action could object to and seek review of the recommendation within fourteen days of service of the report, neither Plaintiff nor Defendant filed any objections. The election not to file objections to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). The failure to file objections to the report and recommendation waives any further right to appeal.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation, ECF No. 15, is **ADOPTED**.

It is further **ORDERED** that Plaintiff Dynisha Smith's motion for summary judgment, ECF No. 13, is **GRANTED IN PART**.

It is further **ORDERED** that Defendant Commissioner's motion for summary judgment, ECF No. 14, is **DENIED**.

It is further **ORDERED** that this matter is **REMANDED** to the Social Security Administration pursuant to sentence four of 42 U.S.C. § 405(g) for further proceedings consistent with this Memorandum and Order.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: February 3, 2016

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on February 3, 2016.

s/Michael A. Sian
MICHAEL A. SIAN, Case Manager